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SUBJECT: BEST PRACTICES LEAD TO SUCCESSFUL TIP PROSECUTIONS IN LOWER SAXONY

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[11.](#) (SBU) Summary. Combating trafficking in persons (TIP) is a priority for officials in the northern German state of Lower Saxony. In 2008, state officials amended a decree regulating cooperation among the various agencies in order to improve victim assistance programs and cooperation between government and civil society. The changes expanded the reach of Lower Saxony victim-oriented services to foreigner, employment, and youth welfare offices and strengthened cooperation among other agencies such as police, prosecution, and NGOs. Cross-agency TIP awareness courses are routinely held and police are now deploying specially-trained TIP units in cities throughout the state. State prosecutors are determined to bring traffickers to justice regardless of the charges. In the past year and a half, four major TIP cases have been successfully prosecuted for which investigations lasted significant amounts of time and victims were willing to testify. The details of these prosecutions provide insights into the methodology behind Germany's criminal sentencing statistics and demonstrate the impossibility of obtaining a complete understanding of the number of TIP convictions based solely on the published statistics. End Summary.

INTER-GOVERNMENTAL COOPERATION IMPROVED

[12.](#) (SBU) Although Lower Saxony has mandated anti-TIP cooperation among state government agencies for several years, the senior state prosecutor and organized-crime police representative told poloff that coordination until recently was not functioning as well as it should/could. On July 11, 2008 the Lower Saxony Interior Ministry made amendments to the TIP legislation that are designed to improve cooperation among police, prosecution, and foreigner, social security, youth welfare, and employment offices, as well as TIP NGOs. They established a cross-departmental victim-centered cooperative approach to protect TIP victims. The foreigner, employment, and youth welfare offices are new additions to the network. Cross-departmental seminars for basic and advanced training are conducted regularly to increase TIP awareness, optimize coordination among TIP stakeholders, and improve victim services. In 2008, the Lower Saxony State Offices of Criminal

Investigations (LKA) extended the reach of its TIP trained personnel beyond the state capital by sending investigative teams throughout the state to work primarily on trafficking and sexual exploitation cases.

TIP TRENDS IN LOWER SAXONY

13. (SBU) The Lower Saxony LKA has an outstanding record in combating trafficking in persons in this northern German state. During 2007, 109 TIP preliminary proceedings were completed, an increase of 42 percent over 2006 (77 cases). The number of identified victims declined by seven percent during that time period to 129, while the number of suspects increased by 14 percent to 160. 30 percent of the victims were German, 22 percent were Polish, six percent Romanian and five percent Bulgarian. The majority of the criminal suspects were German (72 percent), followed by Turkish nationals (11 percent) and Polish nationals (six percent). 69 percent of German victims and 76 percent of foreign victims were between the ages of 18 and 25. In discussions with ConGen Hamburg representatives, Lower Saxony police explained that law enforcement authorities have increased efforts to prosecute cases against individuals who induce people under the age of 21 to engage in prostitution (under section 232 subsection 1, sentence 2 of the German Penal Code). Berlin has led the effort in prosecuting cases under this subsection of the law (116 cases in 2007), followed by Lower Saxony (80), North Rhine Westphalia (68), and Hamburg (37). Country-wide there has been a 29 percent increase in preliminary investigations into trafficking human beings under 21 for sexual exploitation (454 cases in 2007). Lower Saxony police note that the number of victims trafficked from Bulgaria, Nigeria and Hungary continues to increase. According to police, Bulgarian trafficking suspects and victims are highly mobile and flexible. Trafficking networks are spread out over several German and European cities. Lower Saxony authorities have observed a growing number of Nigerian traffickers who are involved in human smuggling, document fraud, and the use of

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voodoo magic in order to coerce victims.

CHALLENGES TO PROSECUTION

14. (SBU) While the number of cases has increased, state prosecutors from both Lower Saxony and Hamburg complain that it is difficult to prosecute TIP cases, due in great part to the reluctance of victims to testify, as required under section 232 of the German Penal Code. Police in both states work closely with TIP NGOs to provide victims with protection, housing, counseling, and medical and legal advice. Nevertheless, victims often choose not to participate in trials because they fear retribution, either against themselves or family members or because they have returned to their former lives and put the episode behind them. Prosecutors nonetheless use all penal codes applicable in order to prosecute TIP offenders, but are often not as successful as they would have been if there had been victim testimony. Another inhibiting factor is that it often takes months, if not years, to gather sufficient evidence to ensure a conviction particularly against organized criminal groups involved in TIP. The enlarged EU, which offers freer intra-European mobility, has made identifying potential victims more difficult for authorities. Police may no longer detain and question women who they suspect to be TIP victims on the pretense of checking their legal status. This practice had enabled police in the past to bring potential victims to a non-hostile atmosphere where they could speak without fear. Hamburg State Prosecutor Wolfgang Zoellner told ConGen Hamburg that prior to 2004, human smuggling was the main charge that prosecutors used to incarcerate traffickers. Under the laws at the time, the mere presence of a trafficking victim in Germany was sufficient to prosecute traffickers using smuggling charges.

Lower Saxony Senior State Prosecutor Hansjuergen Schulz noted that EU enlargement has had the benefit of better cooperation among prosecutor's offices, particularly in Eastern Europe.

SUCCESSFUL TIP PROSECUTIONS

¶15. (SBU) Lower Saxony state prosecutors were successful in prosecuting a number of TIP crimes in 2008. ConGen Hamburg representatives recently discussed some of these cases with Lower Saxony Senior State Prosecutor Hansjuergen Schulz. Four are outlined below.

¶16. (SBU) On January 29, 2008 the Hannover District Court found a Polish-German couple, Slawomir and Edyta Morawska, guilty of trafficking in persons and pimping and sentenced them to five and one-half years and three years and three months, respectively. Between 2004 and 2007 the Morawskas ran six apartment-based brothels in Lower Saxony. The Morawskas persuaded, under false pretenses, young Polish women to travel to Germany where they then forced them into prostitution. The Morawskas also worked with human smugglers to bring women into Germany. Some of these women were aware that they would work as prostitutes, but all were held under harsh circumstances, were denied wages, and were required to pay back "expenses" for their transport and work.

¶17. (SBU) On July 2, 2008 the Verden District Court convicted Stephan Klimasch of kidnapping/hostage taking with threats of death or grievous bodily injury in combination with severe trafficking in persons, severe rape, collusion to commit trafficking in persons and sexual assault and sentenced him to 14 years imprisonment and subsequent preventive detention. Police expect Klimasch will spend the rest of his life behind bars. Klimasch's accomplice, Bernd Klisch, was convicted of kidnapping and hostage taking in combination with severe trafficking in persons, as well as rape, sexual assault, and collusion to commit trafficking in persons and sexual assault. Klisch was sentenced to 12 and one-half years imprisonment. Both must pay two of the three female victims 150,000 euros in damages and the third victim 5,000 euros.

¶18. (SBU) Unlike other TIP cases in Germany, Klimasch and Klisch worked alone. The two criminals lured three women - two of whom were German and one who was a Bulgarian student studying in Bremen - to a private home in a residential neighborhood near Bremen pretending to hire them for either PR work or as a nanny. The victims were locked up, chained in a dog cage, and raped by the accused. The offenders led the victims to believe that they were part of a larger organization in order to install fear in

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the victims and make them believe that they had the capability to harm their family and friends. In 24 instances one of the victims was forced to have sex with johns over the period of a couple of weeks. The victims were also forced to suggest further victims among their friends and to "train" one another for prostitution.

¶19. (SBU) On July 3, 2008 the Verden District Court confirmed final judgment on its case adjudicated on October 15, 2007 against Stefan Brockmann and Fritz Witte. Brockmann was sentenced to seven years and nine months incarceration for trafficking in persons for sexual exploitation, human smuggling, and pimping, and sexual assault as well as other less serious charges. Witte, Brockmann's accomplice, was sentenced to jail for one year and nine months for human smuggling and aiding and abetting in trafficking in persons and pimping. Brockmann and Witte, along with several assistants, ran four brothels in Lower Saxony for several years. They employed women from many countries, primarily Lithuania, the Czech Republic, and Romania.

Many of the women were under 21 and investigators found that particularly those from Romania had come to Germany in order to obtain EU residency. Many of them were working with false documentation. The women were held under severe circumstances and were paid only 25 percent of their earnings, some less, depending on their country of origin.

¶10. (SBU) In a case adjudicated on November 11, 2008 an Italian

was convicted of trafficking in persons, rape, and bodily harm and sentenced to a seven year prison term. In this case, the German victim entered the witness protection program and comprehensively testified against the culprit.

IMPLICATIONS FOR TIP STATISTICS

¶11. (U) Due to the methodology used by the Federal Statistics Office in compiling crime statistics, the Klimasch/Klisch case and the case of the Italian referred to in paragraph 10, will not be categorized as TIP crimes. In Germany the sentences received by individuals convicted of multiple crimes appear only under the category with the highest proscribed penalty. TIP has a maximum proscribed sentence of ten years in prison. Therefore, the statistics office will list the Klimasch/Klisch sentences only under criminal code section 239b (kidnapping/hostage taking with threat of death or grievous bodily harm; maximum 15 years) and the Italian will only be listed under section 177 (rape; maximum 15 years). These cases demonstrate the difficulty in interpreting published TIP sentencing statistics due to the fact that the numbers listed under the TIP category capture only a subset of the total number of traffickers sentenced; there exists another set of TIP offenders who were sentenced on multiple charges but whose sentences are listed under a non-TIP crime category in the published statistics (reftel A). Because it is not possible to obtain data that includes every case in which persons were convicted for TIP offenses, attempts to assess Germany's prosecution record based solely on published statistics are unreliable.

COMMENT

¶12. (SBU) Northern German state prosecutors and police display impressive dedication to capturing and prosecuting human traffickers. They also have an in-depth understanding of the duress under which victims are placed. Schulz explained how, at first, police and prosecutors were unsure whether one of the victims in the Klimasch/Klisch case was a culprit or victim due to her unusual behavior. However, after researching the Stockholm syndrome and providing proper medical attention and assessments, they were able to ascertain the victim's innocence and assist her effectively. Nevertheless, prosecuting TIP cases remains a challenge due to the expanded EU borders, the inability to force victims to testify, and the organized aspects of the crime. End Comment.

¶13. (U) This cable has been coordinated with Embassy Berlin.
JOHNSON